

TTAB

**IN THE UNITED PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

AMAZON.COM INC
1200 12TH AVENUE SOUTH SUITE 1200
SEATTLE WASHINGTON 98144

OPPOSITION 91122000 JULY 20, 2004

OPPOSER

V.

VON ERIC LERNER KALAYDJIAN
4226 SCANDIA WAY
LOS ANGELES CALIFORNIA 90065

APPLICANT

Response

**APPLICANT HEREBY OBJECTS TO 41 REQUESTS OF ADMISSION
AND ALSO OBJECTS TO THE ONE INTERROGATORIES.**

**OPPOSER IS UNTIMELY (late) IN TRYING TO PERSUE ON
OPPOSITION RULING AGAINST APPLICANT.**

**APPLICANT HEREBY ASKS THE TTAB TO THROW OUT THIS
OBSURD AND PROPOSTEROUS OPPOSITION AND TO
FULLFILL THE COSMETICSAMAZON MARKS REGISTRATION.
OPPOSER WITHDREW FROM A FEDERAL CIVIL LAWSUIT WITH
PREJUDICE KNOWING FULL WELL THAT APPLICANT WAS USING
THE COSMETICSAMAZON MARK AND AMAZON COSMETICS
AMAZONTAN MARKS. amazon.com vs kalaydjian 2001.**

U3 [Signature] 7.22-04



07-22-2004

U.S. Patent & TMOc/TM Mail Rcpt Dt. #22

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

AMAZON.COM, INC.
1200 12th Avenue South, Suite 1200
Seattle, Washington 98144,

Opposer,

Opposition No.122,000

v.

VON ERIC LERNER KALAYDJIAN
4226 Scandia Way
Los Angeles, California 90065,

Applicant.

OPPOSER'S FIRST SET OF INTERROGATORIES TO APPLICANT

Pursuant to Rule 2.120 of the Trademark Rules of Practice and Rule 33 of the Federal Rules of Civil Procedure, Opposer Amazon.com, Inc. ("Amazon.com") hereby requests that Applicant Von Eric Lerner Kalaydjian answer separately and completely by July 31, 2004. This interrogatory is continuing in nature, such that if at any time after service of the answers to it, and prior to entry of final judgment in this action, Applicant obtains or learns of additional responsive information, Applicant shall supplement his answers.

OPPOSER'S FIRST SET OF
INTERROGATORIES - 1

[25427983_1.DOC



07-22-2004

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #22

For the convenience of the Trademark Trial and Appeals Board and the parties, Opposer requests that the interrogatory be quoted in full immediately preceding the response.

DEFINITIONS AND INSTRUCTIONS

1. "YOU" and "YOUR" shall mean Von Eric Lerner Kalaydjian and/or Amazon Cosmetics and Tan Products and any of their officers, directors, employees, partners, corporate parents, subsidiaries, affiliates, agents, representatives or anyone acting or purporting to act on their behalf.

2. "PERSON" shall mean any natural person or entity or any business or legal entity or association.

3. "ENTITY" shall mean any company, corporation, partnership, union, joint venture, sole proprietorship, association, government agency, organization or any other similar type of group through which business is conducted, or any director, officer, employee or agent thereof.

4. "DOCUMENT" is defined to be synonymous in meaning and equal in scope to the usage of the term in Rule 34(a) of the Federal Rules of Civil Procedure and includes any information or matter memorialized in any way, however stored, including without limitation: email or other correspondence, transcriptions, tapes, notes from telephone conversation, agreements, contracts, assignments, records, tape recordings (whether or not transcribed), reports, memoranda, studies, summaries, minutes, notes, agenda, drafts, marginalia, bulletins, diaries, calendars, logs, announcements, instructions, charts, manuals, brochures, schedules, computer data (whether maintained in hard copy or electronically and whether text, image, video or sound), telegrams, teletype, phonographic matter, photographs

(whether still or videotape), financial statements, accounting records, work sheets, profit and loss statements, income tax records and returns and any other such documents and tangible things. A draft or non-identical copy is a separate document within the meaning of this term.

5. When referring to a PERSON, to "IDENTIFY" shall mean to give, to the extent known: (i) the person's full name; (ii) the person's present or last known address and telephone number; and, when referring to a natural person, (iii) the person's present or last known position and employer or business affiliation.

6. When referring to an ENTITY, to "IDENTIFY" shall mean to state, to the extent known: (i) its full name; (ii) the type of organization (e.g., limited partnership or corporation); (iii) its address and telephone number; and (iv) the identity of those natural persons who represent such entity and with whom defendant principally has had contact.

7. When referring to DOCUMENTS, to "IDENTIFY" means to state, to the extent known: (i) the type of document (e.g., letter or memorandum); (ii) the general subject matter; (iii) the date of the document; (iv) the author; (v) the addressee; (vi) all recipients; and (vii) its present or last known location or custodian.

8. As used herein, the singular shall be construed to include the plural, and vice versa, as necessary to give these discovery requests their broadest possible meaning.

INTERROGATORIES

INTERROGATORY NO. 1:

INTERROGATORY NO. 1: To the extent YOUR response to any of the Requests for Admission set forth in the accompanying Opposer's First Set of Requests for Admission to Applicant is anything other than an unqualified admission, please (i) state all facts upon which YOUR refusal to admit is based; (ii) IDENTIFY all PERSONS with knowledge of any such

facts; and (iii) IDENTIFY all DOCUMENTS that support YOUR refusal to admit.

DATED: July 1, 2004

Fulbright & Jaworski L.L.P.



John C. Rawls
Sarah Silbert
Attorneys for Opposer
AMAZON.COM, INC.

Certificate of Mailing by Overnight Courier

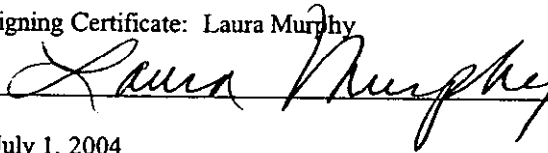
"Federal Express" Tracking Number: 790687345628

Date of Deposit: July 1, 2004

I hereby certify that this correspondence is being deposited with Federal Express with sufficient postage on the date indicated above and is addressed to: Von Eric Lerner Kalaydjian, 4226 Scandia Way, Los Angeles, California 90065-4329.

Name of Person Signing Certificate: Laura Murphy

Signature: _____



Date of Signing: July 1, 2004

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

AMAZON.COM, INC.
1200 12th Avenue South, Suite 1200
Seattle, Washington 98144,

Opposer,

v.

VON ERIC LERNER KALAYDJIAN
4226 Scandia Way
Los Angeles, California 90065,

Applicant.

Opposition No.122,000

OPPOSER'S FIRST SET OF REQUESTS FOR ADMISSION TO APPLICANT

Pursuant to Rule 2.120 of the Trademark Rules of Practice and Rule 36 of the Federal Rules of Civil Procedure, Opposer Amazon.com, Inc. ("Amazon.com") serves this First Set of Requests for Admission on Applicant Von Eric Lerner Kalaydjian ("Kalaydjian") and requests Applicant to make the following admissions by July 31, 2004.

25427614.1

OPPOSER'S FIRST SET OF REQUESTS FOR
ADMISSION - 1



07-22-2004

U.S. Patent & TMO/TM Mail Rpt Dt. #22

DEFINITIONS AND INSTRUCTIONS

1. "AMAZON.COM" shall mean Amazon.com, Inc. and any of its officers, directors, employees, agents, representatives or anyone acting or purporting to act on their behalf.
2. "YOU" and "YOUR" shall mean Von Eric Lerner Kalaydjian and/or Amazon Cosmetics and Tan Products and any of their officers, directors, employees, partners, corporate parents, subsidiaries, affiliates, agents, representatives or anyone acting or purporting to act on their behalf.
3. "AMAZON.COM MARKS" shall mean and include trademark registration numbers 2167345, 2078496 and 2078494.
4. As used herein, the singular shall be construed to include the plural, and vice versa, as necessary to give these discovery requests their broadest possible meaning.
5. As used herein, the connectives "and" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.
6. The information sought in these written discovery requests is that which is current to the date of responses thereto; these written discovery requests shall be deemed continuing so that with respect to any particular request as to which defendant, after answering, acquires additional or different knowledge or information, Amazon.com requests that defendant, pursuant to F. R. Civ. P. 26(e) serve supplemental answers within twenty (20) days after acquiring such additional or different knowledge or information.

REQUESTS FOR ADMISSION

REQUEST FOR ADMISSION NO. 1:

Please admit that YOU were aware of the existence of one or more of the AMAZON.COM MARKS at the time YOU filed an application with the United States Patent and Trademark Office to register the term "COSMETICSAMAZON" as a trademark.

REQUEST FOR ADMISSION NO. 2:

Please admit that YOU were aware of the existence of one or more of the AMAZON.COM MARKS at the time YOU first used the name COSMETICSAMAZON in commerce.

REQUEST FOR ADMISSION NO. 3:

Please admit that the AMAZON.COM[®] name and mark and logos incorporating that term are fanciful marks.

REQUEST FOR ADMISSION NO. 4:

Please admit that each of the AMAZON.COM[®] name and mark and logos incorporating that term are valid trademarks.

REQUEST FOR ADMISSION NO. 5:

Please admit that AMAZON.COM's trademark registration no. 2167345 for the AMAZON.COM[®] mark is valid.

REQUEST FOR ADMISSION NO. 6:

Please admit that AMAZON.COM's trademark registration no. 2078496 for the AMAZON.COM[®] mark is valid.

REQUEST FOR ADMISSION NO. 7:

Please admit that AMAZON.COM's trademark registration no. 2078494 for the AMAZON.COM BOOKS[®] mark is valid.

REQUEST FOR ADMISSION NO. 8:

Please admit that AMAZON.COM's trademark registration no. 2837138 for the AMAZON.COM BOOKS® mark is valid.

REQUEST FOR ADMISSION NO. 9:

Please admit that the AMAZON.COM MARKS became valid trademarks before YOU filed an application with the United States Patent and Trademark Office to register the name "COSMETICSAMAZON" as a trademark.

REQUEST FOR ADMISSION NO. 10:

Please admit that AMAZON.COM's trademark registration no. 2167345 for the AMAZON.COM® mark became a valid trademark before YOU filed an application with the United States Patent and Trademark Office to register the name "COSMETICSAMAZON" as a trademark.

REQUEST FOR ADMISSION NO. 11:

Please admit that AMAZON.COM's trademark registration no. 2078496 for the AMAZON.COM® mark became a valid trademark before YOU filed an application with the United States Patent and Trademark Office to register the name "COSMETICSAMAZON" as a trademark.

REQUEST FOR ADMISSION NO. 12:

Please admit that AMAZON.COM's trademark registration no. 2078494 for the AMAZON.COM BOOKS® mark became a valid trademark before YOU filed an application with the United States Patent and Trademark Office to register the name "COSMETICSAMAZON" as a trademark.

REQUEST FOR ADMISSION NO. 13:

Please admit that the AMAZON.COM MARKS became valid trademarks before YOU first used the name COSMETICSAMAZON in commerce.

REQUEST FOR ADMISSION NO. 14:

Please admit that AMAZON.COM's trademark registration no. 2167345 for the AMAZON.COM[®] mark became a valid trademark before YOU first used the name COSMETICSAMAZON in commerce.

REQUEST FOR ADMISSION NO. 15:

Please admit that AMAZON.COM's trademark registration no. 2078496 for the AMAZON.COM[®] mark became a valid trademark before YOU first used the name COSMETICSAMAZON in commerce.

REQUEST FOR ADMISSION NO. 16:

Please admit that AMAZON.COM's trademark registration no. 2078494 for the AMAZON.COM BOOKS[®] mark became a valid trademark before YOU first used the name COSMETICSAMAZON in commerce.

REQUEST FOR ADMISSION NO. 17:

Please admit that the AMAZON.COM[®] name and mark and logos incorporating that term are "famous" within the meaning of the Federal Trademark Dilution Act, 15 U.S.C. § 1125(c).

REQUEST FOR ADMISSION NO. 18:

Please admit that the AMAZON.COM MARKS became "famous" within the meaning of the Federal Trademark Dilution Act, 15 U.S.C. § 1125(c) before YOU filed an application with the United States Patent and Trademark Office to register the name "COSMETICSAMAZON" as a trademark.

REQUEST FOR ADMISSION NO. 19:

Please admit that the AMAZON.COM MARKS became “famous” within the meaning of the Federal Trademark Dilution Act, 15 U.S.C. § 1125(c), before YOU first used the name COSMETICSAMAZON in commerce.

REQUEST FOR ADMISSION NO. 20:

Please admit that the name “COSMETICSAMAZON” is substantially similar to the AMAZON.COM[®] name and mark and logos incorporating that term.

REQUEST FOR ADMISSION NO. 21:

Please admit that YOU selected the COSMETICSAMAZON with the intent to benefit from the goodwill associated with Amazon.com and the AMAZON.COM MARKS.

REQUEST FOR ADMISSION NO. 22:

Please admit that YOU selected the COSMETICSAMAZON name with knowledge that YOUR customers would recognize the similarity to the AMAZON.COM MARKS.

REQUEST FOR ADMISSION NO. 23:

Please admit that consumers seeing the COSMETICSAMAZON mark and the AMAZON.COM[®] name and mark and logos incorporating that term are likely to believe that there is some affiliation, connection or association between the COSMETICSAMAZON marks and the AMAZON.COM[®] name and mark and logos incorporating that term, or the goods and services offered thereunder.

REQUEST FOR ADMISSION NO. 24:

Please admit that consumers seeing the COSMETICSAMAZON mark and the AMAZON.COM[®] name and mark and logos incorporating that term are likely to believe that goods and services offered under the COSMETICSAMAZON mark originate from or are sponsored or approved by Amazon.com.

REQUEST FOR ADMISSION NO. 25:

Please admit that YOU have used the name COSMETICSAMAZON in a manner that creates a likelihood of confusion among an appreciable number of ordinarily prudent consumers as to YOUR association with, or sponsorship or endorsement by AMAZON.COM.

REQUEST FOR ADMISSION NO. 26:

Please admit that YOU are have used the name COSMETICSAMAZON in a manner that creates a likelihood of deception among an appreciable number of ordinarily prudent consumers as to YOUR association with, or sponsorship or endorsement by AMAZON.COM.

REQUEST FOR ADMISSION NO. 27:

Please admit that YOU are have used the name COSMETICSAMAZON in a manner that creates a likelihood of mistake among an appreciable number of ordinarily prudent consumers as to YOUR association with, or sponsorship or endorsement by AMAZON.COM.

REQUEST FOR ADMISSION NO. 28:

Please admit that the name COSMETICSAMAZON is likely to give rise to the mistaken belief by members of the public that YOUR services originate from or are in some way associated with AMAZON.COM, the AMAZON.COM® name and mark and logos incorporating that term and/or the goods and services that AMAZON.COM offers under the AMAZON.COM MARKS.

REQUEST FOR ADMISSION NO. 29:

Please admit that the name COSMETICSAMAZON is likely to cause members of the public to be confused and deceived as to the source, origin, affiliation and sponsorship of YOUR product offered under the name COSMETICSAMAZON.

REQUEST FOR ADMISSION NO. 30:

Please admit that YOUR use of the name COSMETICSAMAZON caused or causes consumers who hear or read that name to think of Amazon.com.

REQUEST FOR ADMISSION NO. 31:

Please admit that YOUR use of the name COSMETICSAMAZON will damage the existing good will and reputation associated with the AMAZON.COM MARKS.

REQUEST FOR ADMISSION NO. 32:

Please admit that YOUR use of the name COSMETICSAMAZON is likely to cause dilution of a distinctive quality of the AMAZON.COM MARKS.

REQUEST FOR ADMISSION NO. 33:

Please admit that YOUR use of the name COSMETICSAMAZON is likely to lessen the capacity of the AMAZON.COM MARKS to identify and distinguish goods and services.

REQUEST FOR ADMISSION NO. 34:

Please admit that, no later than February 2, 2001, YOU were informed by Amazon.com that YOUR use of the name COSMETICSAMAZON had created and would continue to create confusion among consumers that YOUR product sold under that name is affiliated with or sponsored by Amazon.com.

REQUEST FOR ADMISSION NO. 35:

Please admit that YOU plan to use the name COSMETICSAMAZON to identify a product offered for sale to the public.

REQUEST FOR ADMISSION NO. 36:

Please admit that the AMAZON.COM MARKS are held in high regard by consumers.

REQUEST FOR ADMISSION NO. 37:

Please admit that YOU plan to sell a product or products under the name COSMETICSAMAZON throughout the United States.

REQUEST FOR ADMISSION NO. 38:

Please admit that YOU plan to advertise a product or products under the name COSMETICSAMAZON throughout the United States.

REQUEST FOR ADMISSION NO. 39:

Please admit that YOU did not consult an attorney before filing an application with the United States Office of Patents and Trademarks for registration of "COSMETICSAMAZON" as a trademark.

REQUEST FOR ADMISSION NO. 40:

Please admit that YOU were aware of the existence of AMAZON.COM on or before March 8, 2000.

REQUEST FOR ADMISSION NO. 41:

Please admit that YOU were aware of the existence of the AMAZON.COM MARKS on or before March 8, 2000.

REQUEST FOR ADMISSION NO. 42:

Please admit that YOU were aware of the existence of the Web site operated from the Internet domain <amazon.com> on or before March 8, 2000.

DATED: July 1, 2004

FULBRIGHT & JAWORSKI L.L.P.



John C. Rawls

Sarah Silbert

Attorneys for Opposer

AMAZON.COM, INC.

Certificate of Mailing by Overnight Courier

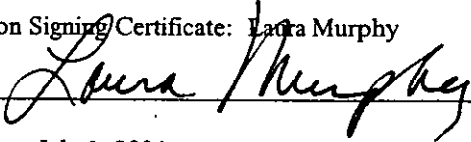
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Date of Deposit: July 1, 2004

I hereby certify that this correspondence is being deposited with Federal Express with sufficient postage on the date indicated above and is addressed to: Von Eric Lerner Kalaydjian, 4226 Scandia Way, Los Angeles, California 90065-4329.

Name of Person Signing Certificate: Laura Murphy

Signature: _____



Date of Signing: July 1, 2004